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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,550	02/03/2004	Robert L. Horton	11836.0748.NPUS00	5502

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EXAMINER	
FULLER, BRYAN A	
ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,550	HORTON ET AL.	
	Examiner	Art Unit	
	Bryan A. Fuller	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 August 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☒ Claim(s) *6 and 12* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/21/04 & 8/2/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 6 and 12 are objected to because of the following informalities: hydroxyethylcellulose is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1 – 4 and 7 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al (6,849,581).

With respect to claims 1, 3 – 4, 7, and 9 - 10: Thompson et al teaches in column 1, line 63 – column 2, line 3, column 6, lines 19 – 32, column 8, lines 16 – 41, column 44, lines 25 – 39, Tables 32 – 35, and in column 48, lines 23 – 47 a method of controlling the inversion of a drilling fluid or the wettability of a filtercake, wherein the drilling fluid includes: an oleaginous fluid; a non-oleaginous fluid; an amine surfactant with specified structure, the method comprising mixing said drilling fluid with a delayed phase changing agent selected from the group consisting of aliphatic amine acids, salts of aliphatic amine acids and combinations thereof. More specifically, the reference teaches a method wherein the delayed phase changing agent is selected from the group consisting of ethylene diamine tetraacetic acid, alkali metal salts of ethylene diamine tetraacetic acid and combinations thereof.

With respect to claims 2 and 8: Thompson et al teaches in column 11, lines 33 – 48 a method wherein the delayed phase changing agent is delivered in the form of a pill, the pill including a carrier fluid, a viscosifier and the delayed phase changing agent.

4. Claims 1, 3 – 5, 7, and 9 – 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cowan (5,439,056).

With respect to claims 1, 3 – 4, 7, and 9 - 10: Cowan teaches in column 3, line 36 – column 4, line 40 and in column 6, line 18 – column 7, line 2 a method of controlling the inversion of a drilling fluid or the wettability of a filtercake, wherein the drilling fluid includes: an oleaginous fluid; a non-oleaginous fluid; an amine surfactant with specified structure, the method comprising mixing said drilling fluid with a delayed phase changing agent selected from the group consisting of aliphatic amine acids, salts

of aliphatic amine acids and combinations thereof. More specifically, the reference teaches a method wherein the delayed phase changing agent is selected from the group consisting of ethylene diamine tetraacetic acid, alkali metal salts of ethylene diamine tetraacetic acid and combinations thereof.

With respect to claims 5 and 11: Cowan teaches in column 3, lines 47 – 51 a method wherein the carrier fluid is an aqueous alkali salt solution.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al in view of Dobson, Jr. et al (6,325,149).

With respect to claims 6 and 12: Thompson et al teaches the features as previously claimed except wherein the viscosifier is a hydroxyethylcellose. Dobson, Jr. et al teaches in column 2, line 64 – column 4, line 67 a method wherein the viscosifier is a hydroxyethylcellose. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Thompson et al's invention by using hydroxyethylcellose as the viscosifier in view of Dobson, Jr. et al. The motivation for this combination according to Dobson, Jr. et al is that hydroxyethylcellulose is a typical viscosifier that is useful in displacement spacer fluids.

7. Claims 2, 6, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowan et al in view of Dobson, Jr. et al (6,325,149).

With respect to claims 2 and 8: Cowan teaches the features as previously claimed except wherein the viscosifier, carrier fluid, and the delayed phase changing agent are delivered in a pill form. Dobson, Jr. et al teaches in column 2, line 64 – column 4, line 67 a method wherein the viscosifier and carrier (base) fluid are delivered in a pill form. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cowan's invention by delivering the viscosifier, carrier fluid, and the delayed phase changing agent in a pill form in view of Dobson, Jr. et al. The motivation for this combination according to is that hydroxyethylcellulose is a typical viscosifier delivered in a pill form with a carrier (base) fluid that is useful in displacement spacer fluids.

With respect to claims 6 and 12: Cowan teaches the features as previously claimed except wherein the viscosifier is a hydroxyethylcellose. Dobson, Jr. et al teaches in column 2, line 64 – column 4, line 67 a method wherein the viscosifier is a hydroxyethylcellose. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cowan's invention by using hydroxyethylcellose as the viscosifier in view of Dobson, Jr. et al. The motivation for this combination according to Dobson, Jr. et al is that hydroxyethylcellulose is a typical viscosifier that is useful in displacement spacer fluids.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan A. Fuller whose telephone number is (571) 272-8119. The examiner can normally be reached on M - Th 7:30 - 5:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian E. Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian E. Glessner
Supervisory Patent Examiner
Art Unit 3676

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